

BOARD MEMBERS

JAMES J. ACHENBACH
Chair
GEORGE DELABARRE
Vice Chair
EDDIE CASTORIA
Secretary
SHERYL BENNETT
DEBRA DEPRATTI GARDNER
ISRAEL GARZA
RILEY GORDON
CLIFFORD O. MYERS III
CALIXTO PENA
LOREN VINSON
LOUIS WOLFSHEIMER

**EXECUTIVE OFFICER**

PATRICK A. HUNTER

County of San Diego

CITIZENS' LAW ENFORCEMENT REVIEW BOARD

1168 UNION STREET, SUITE 400, SAN DIEGO, CA 92101-3819

TELEPHONE: (619) 238-6776 FAX: (619) 238-6775

www.sdcountry.ca.gov/clerb

REGULAR MEETING AGENDA

TUESDAY, June 12, 2012, 5:30 P.M.

San Diego County Administration Center

1600 Pacific Highway, Room 302/303, San Diego, 92101

The public portion of the meeting must be concluded in time to allow the public to vacate the building by 6:00 p.m.
(Free parking is available on the street or pay Ace Parking on the south side. Enter at the north entrance.)

Pursuant to Government Code Section 54954.2 the Citizens' Law Enforcement Review Board will conduct a meeting at the above time and place for the purpose of transacting or discussing business as identified on this agenda. Complainants, subject officers, representatives or any member of the public wishing to address the Board on any of today's agenda items should submit a "Request to Speak" form to the Administrative Secretary prior to the commencement of the meeting.

DISABLED ACCESS TO MEETING

A request for a disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting. Any such request must be made to Ana Becker at (619) 238-6776 at least 24 hours before the meeting.

1. ROLL CALL

2. MINUTES APPROVAL

- a) Minutes of the May 2012 Regular Meeting (*Attachment A*)

3. PRESENTATION / TRAINING

- a) Drugs in Detention Facilities, Detentions Investigations Unit

4. EXECUTIVE OFFICER'S REPORT

- a) Workload Report - Open Complaints/Investigations Report (*Attachment B*)

5. BOARD MEMBER COMMENTS

6. NEW BUSINESS

- a) N/A

7. UNFINISHED BUSINESS

- a) Business Process Reengineering (BPR) Update
- b) Rules Committee Update
- c) 2010 Annual Report
- d) Early Warning System(s) / Case Tracking

8. PUBLIC COMMENTS

- a) This is an opportunity for members of the public to address the Board on any subject matter that is within the Board's jurisdiction. Each speaker should complete and submit a "Request to Speak" form to the Administrative Secretary. Each speaker will be limited to three minutes.

9. SHERIFF / PROBATION LIAISON QUERY

10. CLOSED SESSION

- a) **Discussion & Consideration of Complaints & Reports / Officer Discipline Recommendation:** Pursuant to Government Code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen (unless the employee requests a public session). Notice pursuant to Government Code Section 54957 for deliberations regarding consideration of subject officer discipline recommendation (if applicable).

DEFINITION OF FINDINGS	
Sustained	The evidence supports the allegation and the act or conduct was not justified.
Not Sustained	There was <u>insufficient evidence</u> to either prove or disprove the allegation.
Action Justified	The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.
Unfounded	The evidence shows that the alleged act or conduct did not occur.
Summary Dismissal	The Review Board lacks jurisdiction or the complaint clearly lacks merit.

CASES FOR SUMMARY HEARING (13)

ALLEGATIONS, RECOMMENDED FINDINGS & RATIONALE

11-025

1. Discrimination/Other – Deputy 1 profiled and/or displayed prejudice toward the complainant due to a “HELLS 21” motorcycle patch he wore.

Recommended Finding: Not Sustained

Rationale: While on traffic patrol, Deputy 1 observed the complainant exceeding the speed limit. Deputy 1 paced the complainant and confirmed excess speed. Deputy 1 stated that due to the distance, he was unaware of what the complainant was wearing upon his first visual. Field Interview Reports document prior contacts law enforcement had with the complainant on October 29, 2009 and January 24, 2011, concerning his status as a

“Hells Angel supporter”. Law enforcement officers are trained to be cautious and vigilant while taking any law enforcement action. Deputy 1 denied profiling the complainant. There was no tangible evidence to either prove or disprove this allegation.

2. Misconduct/Discourtesy – Deputy 1 said to the complainant, “you threatening me motherfucker”.

Recommended Finding: Not Sustained

Rationale: The complainant and a witness stated Deputy 1 utilized profanity during this interaction, which is a violation of Sheriff’s Department policy. Deputy 1 denied using profanity during his contact with the complainant. There were no audio recordings of this interaction and no other evidence to either prove or disprove the allegation.

3. Misconduct/Procedure – Deputy 1 turned off a tape recorder during his interaction with the complainant so it would not record his use of profanity.

Recommended Finding: Not Sustained

Rationale: Deputy 1 stated he took out his digital recorder because of threats made by the complainant. The digital recorder was not utilized during this contact and there was no audio recording or other evidence available to either prove or disprove this allegation.

4. Misconduct/Intimidation – Deputy 1 told the complainant, “I know where you live,” “I know where you ride,” and “I just talked to someone that knows more about you then you know about yourself”.

Recommended Finding: Action Justified

Rationale: Deputy 1 said another deputy heard radio traffic and recognized the complainant’s name. Law enforcement personnel frequently exchange pertinent information during the course of duties for officer safety. The evidence shows the conduct occurred and was lawful, justified and proper.

5. False Arrest – Deputy 1 detained the complainant and his companion for 45 minutes, then issued a speeding violation for going with the flow of traffic in the Number 1 lane, as other vehicles sped past in the Number 2 and 3 lanes.

Recommended Finding: Action Justified

Rationale: According to the Computer Aided Dispatch records, this event began at 10:33 a.m., and ended at 11:11 a.m.; a length of 38 minutes. Deputy 1 initially observed two motorcycles traveling faster than all other vehicles and estimated their speed to be 80-85 mph. Deputy 1 sped up, got closer and paced them at about 82 mph. The complainant did not deny that he was speeding; only that he was “going with the flow of traffic.” There is no “flow of traffic” rule that allows exemption(s) to the basic speed law. The complainant was issued Citation #547789, for exceeding the posted speed limit; a violation of VC§ 22349, Maximum Speed Limit. The evidence shows the conduct was lawful, justified and proper.

6. Misconduct/Procedure – Deputy 1 performed a “wheelie” upon leaving the scene of this incident.

Recommended Finding: Not Sustained

Rationale: Deputies are required to operate all vehicles in a careful and prudent manner and obey all departmental orders and laws of the state in the performance of their duties. A witness to this incident stated she heard Deputy 1 leave quickly, but her view was obstructed and she did not visually observe the departure. Deputy 1 said in order to gain freeway speed and for merging purposes, he accelerated quickly as he rode down the right shoulder. Deputy 1 denied that his front wheel left the ground. Without any tangible evidence there are insufficient grounds to either prove or disprove this allegation.

7. Excessive Force – Five Sheriff Patrol vehicles and a motorcycle officer approached the complainant with hands on their weapons without provocation during a routine traffic stop.

Recommended Finding: Not Sustained

Rationale: Deputies responded to Deputy 1's request for back-up. It is common practice for law enforcement officers to respond in numbers to any given situation. Deputy 1 made first contact and did not recall having his hand on his weapon. As authorized by law, deputies may use physical force in the performance of their duties when the need for such force is legally justified and necessary, as well as reasonably and legally applied. Statements made by the complainant and Deputy 1 are in dispute and there was insufficient evidence to either prove or disprove this allegation.

11-032

1. Misconduct/Procedure- Deputy 4 classified the former Mexican Mafia inmate into complete isolation.

Recommended Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers' Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Misconduct/Procedure – Deputy 4 did not provide dayroom time to the complainant.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Misconduct/Procedure – Deputy 2 did not process and/or respond to the complainant's grievance submitted in Dec 2010 and/or January 2011.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

4. Misconduct/Procedure – Deputy 4 would not allow the complainant's investigator to have Professional Contact Visits in December 2010 and/or March 2011.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

5. Misconduct/Procedure – Deputy 3 infringed upon the complainant's legal rights by not allowing his attorney to utilize a laptop computer during a professional visit.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

6. Misconduct/Retaliation –Deputies 1 and 4 retaliated against the complainant in response to letters he wrote to Deputy District Attorney Amador.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

7. Misconduct/Procedure – Deputy 4 refused to take and/or investigate the complainant's complaint regarding classification.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

(CLERB Investigator's note: Other issues brought forth by the complainant concerning food, medical visits, visitor searches, etc are outside CLERB's purview and were referred back to the Sheriff's Department for investigation.)

11-033

1. Excessive Force – Deputy 1 threw a night stick (baton) through the complainant’s bicycle spokes.

Recommended Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers’ Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Misconduct/Discourtesy – Deputy 1 laughingly said to the complainant, “you should have seen yourself flying over the handlebars of your bike dude, that shit was so fucking funny!”

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Misconduct/Discourtesy – Deputy 1 at the Ramona substation laughingly talked about the incident as the injured complainant sat on a bench.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

4. Misconduct/Procedure – An unidentified female sergeant said she was unsure as to what to do when a deputy asked if the complainant should be taken to jail or a hospital.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

5. Misconduct/Procedure – Deputy 1 delayed making a decision on the complainant’s medical care for over 45 minutes as blood dripped from his ear after using force to effect an arrest.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

6. Misconduct/Procedure – Deputy 1 released the complainant from custody at the hospital after being told he needed a higher level of medical care.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

11-043

1. Misconduct Procedure – Deputy 5 presented the complainant with a write up and told him, “You can rip it up for all I care, you’ve been served.” the complainant was then disciplined for ripping up the write up.

Recommended Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers’ Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Misconduct/Procedure – Deputy 5 placed the complainant in Administrative Segregation on or about April 2, 2011.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Misconduct/Procedure – Deputy 1 told the complainant that he would get him released to mainline housing if he tore up his grievance/complaint.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

4. Misconduct/Procedure - Deputy 2 refused to talk with the complainant about his grievances and stated, “I’m not allowed to give you that type of information” when asked about the Attorney General’s Office.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

5. Misconduct/Procedure – Deputy 2 caused the complainant to be placed on lockdown in Administrative Segregation on or about April 12, 2011.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

6. Misconduct/Procedure – Deputy 3 returned the complainant to Administrative Segregation on or about April 10, 2011.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

7. False Report - Deputy 3 falsified the segregated housing order citing the reason for placing the complainant in administrative segregation.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

8. Misconduct/Discourtesy - Deputy 4 responded to an intercom call from the complainant, “What do you want slob?”

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

9. Misconduct/Procedure - Deputy 7 denied the complainant use of a telephone.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

10. Misconduct/Intimidation – Deputy 7 stated “If he does not stop acting up, they were going to fuck him up.”

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

11. Misconduct/Truthfulness - Deputy 6 told the complainant’s wife that he had advised her he would look into her husband’s situation.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

12. Misconduct/Procedure – Deputy 7 told the complainant’s wife that she could not file a complaint on behalf of her husband.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

13. Misconduct/Procedure – Deputy 7 refused to give the complainant his food gift packs and/or money deposits.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

14. Misconduct/Procedure – Deputy 7 refused to take phone calls from the complainant’s wife.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

15. Misconduct/Procedure – Deputy 7 refused to provide the complainant with appropriate medical treatment and medication.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

11-055

1. Discrimination/Sexual-Gender – Deputies 3, 4 and/or 5 have regularly discriminated transgender/ homosexual inmates because of their sexual orientation/gender.

Recommended Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers’ Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Excessive Force – Deputy 2 smashed an inmate’s hand in the tank door causing severe swelling & pain for the inmate.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Misconduct/Procedure – Deputy 1 failed to provide cleaning cart on May 6, 2011 after being asked over seven times.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

4. Discrimination/Sex-Gender – Deputy 2 referred to a co-complainant with a derogatory term when talking with medical staff personnel.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

5. Misconduct/Procedure - Deputy 5 failed to take action on April 1-3, 2011, to stop sewage from entering the housing unit through drains, showers and toilets, which resulted in unsanitary conditions.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

6. Misconduct/Procedure - Deputy 5 denied inmates access to a cleaning cart April 1-3, 2011 which resulted in unsanitary conditions in the cell.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

7. Misconduct/Procedure - Deputy 5 repeatedly refused to provide aid and/or request medical attention for an inmate with a compromised immune system causing the inmate to go into distress.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

8. Misconduct/Procedure – Deputy 5 failed to satisfactorily respond to numerous grievances submitted by inmates.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

9. Misconduct/Procedure – Deputy 5 refused to notify medical staff that inmates needed treatment.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

10. Misconduct/Procedure – Deputy 5 stripped out transgendered inmates in front of male inmates, humiliating and downgrading them.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

11. Discrimination/Sexual-Gender –Deputy 5 denied inmates access to religious services because of their Sexual Orientation/Gender.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

12. Discrimination/Sexual-Gender –Deputy 5 denied inmates access to court ordered classes and programs i.e (AIDS education, GED, N/A and A/A) because of their Sexual Orientation/Gender.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

(*CLERB Investigator's note:* Other issues brought forth by the complainant concerning medical visits, medication distribution, and medical treatment, etc are outside CLERB's purview and were referred back to the Sheriff's Department for investigation.)

11-061

1. False Arrest – Deputy 3 arrested the complainant for multiple charges.

Recommended Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers' Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Misconduct/Procedure – Deputy 3 repeatedly called the complainant's estranged wife and asked her, "What do you want us to do?"

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Misconduct/Procedure – Deputy 3 arrested the complainant and held him at the Fallbrook station for approximately eight hours without providing an explanation.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

4. Misconduct/Procedure – Deputy 5 trumped up charges in order to run up the complainant's bail.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

5. Misconduct/Procedure – Deputy 3 failed to conduct a proper investigation by not interviewing key witnesses and not photographing an alleged victim of domestic violence completely.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

6. Misconduct/Truthfulness – Deputies 1-5 lied about these events.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

7. False Reporting – Deputies 1-5 made false reports concerning these events.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

8. Criminal Conduct – Deputies 1 and 4 engaged in sexual contact while on duty at the Vista Detention Facility.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

9. Criminal Conduct – Deputy 5 engaged in sexual activities in a basement cell at the Vista Detention Facility.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

10. Criminal Conduct – There is corruption between the District Attorney's Office and the Sheriff's Department.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

11-066

1. Illegal Search or Seizure – Probation Officer 1 entered the complainant’s home without properly displaying a search warrant.

Recommended Finding: Action Justified

Rationale: Probation Officer 1 and members of the San Diego Police Department’s Gang Suppression Team entered the residence of a juvenile probationer to conduct a 4th Waiver Search. One condition of the juvenile’s probation, to which he stipulated, required that he would submit his person, property, or vehicle, and any property under his immediate custody or control to a search at any time, with or without probable cause, with or without a search warrant. The evidence shows that the alleged act did occur, but was lawful, justified and proper.

2. Illegal Search or Seizure – Probation Officer 1 opened a safe or supervised the opening of a safe that was unrelated to the juvenile probationer.

Recommended Finding: Summary Dismissal

Rationale: Probation Officer 1 did not open a safe or supervise the opening of a safe. This function was performed by a member of the San Diego Police Department’s Gang Suppression Team, over which the Review Board lacks jurisdiction.

3. Illegal Search or Seizure – Probation Officer 1 confiscated or supervised the confiscation of materials that belonged to the complainant and were unrelated to the juvenile probationer.

Recommended Finding: Summary Dismissal

Rationale: Probation Officer 1 did not confiscate or supervise the confiscation of any materials while conducting a 4th waiver search on a juvenile probationer. This function was performed by a member of the San Diego Police Department’s Gang Suppression Team, over which the Review Board lacks jurisdiction.

4. Misconduct/Procedure – Probation Officer 1 failed to provide the complainant with a property receipt for items confiscated during probation search.

Recommended Finding: Summary Dismissal

Rationale: Probation Officer 1 was not responsible for providing a property receipt for items confiscated during a probation search. This duty was the responsibility of members of the San Diego Police Department, who confiscated various items for evidentiary purposes and to show dominion and control over the safe and its contents. The Review Board lacks jurisdiction over this agency.

5. Misconduct/Procedure – Probation Officer 1 failed to identify himself or provide contact information to the complainant.

Recommended Finding: Not Sustained

Rationale: Probation Officer 1 reported that he verbally identified himself as a Probation Officer while knocking on the door of the complainant’s residence, and again when the complainant opened her door. Before leaving the residence, Probation Officer 1 reported providing the complainant his name and cell phone number. There was insufficient evidence to either prove or disprove the allegation.

11-074

1. Death Investigation/Overdose - Deputies 1 and 2 found inmate Daniel James Sisson unresponsive after he had failed to appear for a medication pass at the Vista Detention Facility.

Recommended Finding: Action Justified

Rationale: Upon discovery of a non-responsive inmate, Deputies 1 and 2 requested medical assistance and life-saving measures were initiated until Sisson was pronounced deceased. The Medical Examiner determined Sisson died of sudden death associated with acute and chronic bronchial asthma; history of chronic heroin/opioid abuse with withdrawal symptoms; methamphetamine use; manner of death was natural. Toxicology tests were positive for trimethobenzamide, naproxen, naproxen metabolite, methamphetamine, and amphetamine. There was no complaint or evidence of misconduct or a failure to act by any Sheriff's Department personnel.

11-085

1. False Arrest: Deputy 1 arrested the complainant on March 14, 2011.

Recommended Finding: Summary Dismissal

Rationale: The complainant formally withdrew the complaint against Deputy 1 on May 7, 2012. CLERB no longer has authority to investigate this complaint based upon the following CLERB Rules & Regulations: 5.7 Withdrawal of Complaints. A complaint may be withdrawn from further consideration at any time by a written notice of withdrawal signed and dated by the complainant.

2. Excessive Force: Deputy 1 inappropriately applied handcuffs which caused them to tighten on the complainant's wrists.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1

3. Misconduct/Harassment: Deputy 2 harassed the complainant on March 15, 2011.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1

4. Misconduct/Harassment: Deputy 2 harassed the complainant on March 16, 2011.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1

5. Misconduct/Harassment: Deputy 2 harassed the complainant on March 17, 2011.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1

11-118

1. Death Investigation/Accident – Deputy 1 found inmate Richard Ian Diaz on the floor of his George Bailey Detention Facility cell unresponsive and not breathing.

Recommended Finding: Action Justified

Rationale: Upon discovery of a non-responsive inmate, Deputy 1 requested medical assistance and life-saving measures were initiated until Diaz was pronounced deceased. The Medical Examiner determined Diaz died of metabolic complications of functional gastric outlet obstruction, contributing: seizure disorder due to alcohol and heroin dependency; manner of death was accident. Toxicology tests were positive for benzodiazepines, tramadol, tramadol metabolites, chlordiazepoxide, nordiazepam, acetaminophen, demoxepam, and nordiazepam. There was no complaint or evidence of misconduct or a failure to act by any Sheriff's Department personnel.

12-012

1. Criminal Conduct – Deputy 1 parked his patrol unit in a red zone while on personal business.

Recommended Finding: Sustained

Rationale: Deputy 1 confirmed that his patrol unit was parked in a red zone on the night in question. He explained that he was conducting extra patrol at the shopping center that evening, and had parked directly in front of Ralphs in order to create a higher sense of visibility for the two stores that were opened late that night; one of which had recently been robbed. That withstanding, it is a violation of California Vehicle Code Section 22500.1 to park a vehicle along the edge of any highway, at any curb, or in any location in a publicly or privately owned or operated off-street parking facility, designated (red curb) as a fire lane. Further, Encinitas Municipal Code 14.16.040 grants exemption to parking restrictions for authorized emergency vehicles only when responding to emergency calls. No exigent circumstances existed at this location on the night in question; The evidence supports the allegation and the act was not justified.

12-036

1. Excessive Force – Probation Officer 1 beat the complainant's face repeatedly resulting in a swollen face and black eye.

Recommended Finding: Summary Dismissal

Rationale: The involved member was identified as a San Diego Police Department (SDPD) officer over whom CLERB does not have jurisdiction per CLERB Rules & Regulations 4.1 Citizen Complaints: Authority.

1. Discrimination/Other – Probation Officer 1 asked if the complainant was a “Fuckin Fag” because he was wearing mascara.

Recommended Finding: Summary Dismissal

Rationale: The involved member was identified as a San Diego Police Department (SDPD) officer over whom CLERB does not have jurisdiction per CLERB Rules & Regulations 4.1 Citizen Complaints: Authority.

2. Criminal Conduct/Hate Crime – Probation Officer 1 used unnecessary force and said a discriminatory slur when he arrested the complainant.

Recommended Finding: Summary Dismissal

Rationale: The involved member was identified as a San Diego Police Department (SDPD) officer over whom CLERB does not have jurisdiction per CLERB Rules & Regulations 4.1 Citizen Complaints: Authority.

12-039

1. Misconduct/Intimidation – Deputy 1 threatened to plant something illegal on the complainant.

Recommended Finding: Summary Dismissal

Rationale: The complainant failed to establish a prima facie showing of misconduct. Such complaints may be referred to the Review Board for Summary Dismissal, pursuant to CLERB Rules & Regulations: Section 9: Investigation of Complaints; Subsection 9.2: Screening of Complaints.

End of Report